

Minutes of the May 19, 2000 Meeting
City Council Chambers of Loma Linda
25541 Barton Road
Loma Linda

1. The meeting was called to order by Chair Withers at 9:02 a.m.

Board Members Present

Board Members Absent

John Withers, Chair
Melody Henriques, Vice-Chair
Rodger Siems
Carole Beswick
Jose Solorio
Irv Pickler

Seymour Van Gundy

Staff Members Present

Gerard J. Thibeault, Executive Officer
Kurt V. Berchtold, Assistant Executive Officer
Robert L. Holub, Supervising Water Resource Control Engineer
Joanne E. Schneider, Environmental Program Manager
Barbara Laffoon, Secretary
Gary Stewart, Chief, Regulations Section
Kevin Heinemann, LAN Administrator
Hope Smythe, Chief, Basin Planning (Inland Waters)
Dixie Lass, Chief, Land Disposal
Terri Reeder
Steve Mayville, Chief, Dairies/Chino Basin
Athar Khan
Adam Fisher
Mark Doalson
Lance Lin
Mark Adelson, Chief, Surveillance/Enforcement

State Board Representative

Mary Jane Forster

Legal Counsel

Ted Cobb

Public Attendance

Doug Drury, Inland Empire Utilities Agency
Kenneth Dills, City of Huntington Beach
Anne Thomas, Best Best & Krieger, and The Irvine Company
Rod Cruze, City of Riverside
Greg Woodside, Orange Co. Water District
Laura Davick, Alliance to Rescue Crystal Cove
Kim Lewand, Lawyers for Clean Water (for Orange Co. CoastKeeper)

Eloy Florez, Caltrans, District 12
Suzan Jordan, League for Coastal Protection

2. Public Forum

There were no comments.

3. Approval of Minutes of February 25, 2000 meeting

There being no additions or corrections, the minutes of the regular board meeting held on March 31, 2000 were approved as presented.

4. Approval of Consent Calendar Items

Chair Withers asked Executive Officer Thibeault to update the Board on the current status of consent calendar items. Items 8, 13 with errata, 15, 17 with errata, and 19 with errata remained on the consent calendar. Items 9 and 10 were removed due to dischargers' failure to post notices as required under NPDES regulations; items 14, 16, and 18 were postponed. Staff requested that items 11 and 12 be removed from the consent calendar and heard by the Board.

8. Appeal for an Exemption from the 30 Percent Maximum Slope Requirement for the Use of a Subsurface Disposal System - Paul Ostrowiecki, Riverside County

13. Renewal of Waste Discharge Requirements for City of Beaumont, Wastewater Treatment Plant No. 1, Riverside County Order No. 00-10

15. Renewal of Waste Discharge Requirements for Rohr, Inc., Riverside County Order No. 00-40

17. Revised Waste Discharge Requirements for 3M Company, Riverside County Order No. 00-45

19. Rescission of Waste Discharge Requirements for Specific Facilities in San Bernardino, Orange, and Riverside Counties Order No. 00-38

	<u>Order No.</u>	<u>Discharger</u>	<u>County</u>
1.	87-34	Vista Metals Corporation	San Bernardino
2.	98-97	Southland Bio Tech Corp	San Bernardino
3.	77-42	KMT Oil Company, Inc.	Riverside
4.	96-85	Jurupa Community Services District	Riverside
5.	70-8	City of Riverside, Brine Pond	Riverside
6.	93-53	Cargill, Inc.	Orange

Action: It was moved by Board Member Pickler, seconded by Board Member Solorio and unanimously carried to grant the Ostrowiecki appeal and to adopt Orders No. 00-10, 00-40, 00-45 and Rescission Order No. 00-38.

5. Resolution of Appreciation

Board Chair Withers read Resolution of Appreciation 00-59, recognizing the contributions of Karen Stein during her tenure as Board Member. Ms. Stein accepted and thanked the Board for their recognition.

6. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirements - Gary Williams, 9988 Almond Street, Rancho Cucamonga, San Bernardino County

Gary Stewart, Chief, Regulations Section, presented the basis for the denial, citing the Basin Plan requirements and limitations of no more than one septic system per 0.5 acres and advised that Mr. Williams constructed a second dwelling on his property without proper permits. He is now attempting to obtain these permits retroactively. The City of Rancho Cucamonga has withheld permits, subject to the resolution of this appeal to the Regional Board. The lot is only slightly larger than one-half acre in size, and the second dwelling creates a density of more than one dwelling per half-acre, in violation of the Board's minimum lot size requirements. Exemptions may be granted in the event that other septic tanks are connected to a sewer to offset the impact of the new development. On two occasions Mr. Williams attempted to seek an exemption under this criterion, but did not meet the requirements, and staff denied his requests. Mr. Williams is appealing this decision to the Board.

Mr. and Mrs. Williams recently presented letters from a developer who will be installing a sewer system nearby and from Cucamonga County Water District confirming that the sewer will be installed in mid-July and will be available for use by the end of August 2000. It is the intention of the Williams to connect both dwellings to the sewer as soon as it becomes available.

Based on this new information, staff recommended that the Board still deny the Williams' request for exemption from the minimum lot size requirements because the offsets they have proposed do not meet the Board's criteria, but staff further recommended the Board withhold any enforcement until September, 2000 to enable the Williams to connect to the sewer line and abandon the septic tank system or find an acceptable offset.

Action: It was moved by Board Member Siems, seconded by Board Member Pickler and unanimously carried to deny the request for the exemption of the minimum lot size requirement and defer enforcement of that action until September 1, 2000 with the expectation that Mr. Williams will be able to connect to the sewer line that is being installed as a result of the development across the street.

Reconsideration of Item No. 6

Legal Counsel Ted Cobb advised the Board that Mr. and Mrs. Williams had received a letter from the Regional Board listing the meeting time at 9:30 a.m. They had arrived at 9:25 a.m. to discover the Board had already acted upon their item, and they wished an opportunity to speak regarding their request.

Action: It was moved by Board Member Beswick, seconded by Board Member Henriques and unanimously carried that the Board reopen Item No. 6.

Malissa McKeith, Loeb and Loeb Attorneys, spoke on behalf of Mr. & Mrs. Williams. She provided background on the Basin Plan regarding minimum lot size requirements, the Williams' exemption request, and recent letters regarding the development of the sewer

system. A letter dated April 3, 2000 from the City of Rancho Cucamonga indicating that they would take action against the Williams was also presented.

Chair Withers asked Ms. McKeith if she was aware of the action the Board took earlier with regard to this item. She said she was and that the last thing they wished to leave with was a denial because that posed problems with the City. Ms. McKeith requested a continuance to enable the Williams to hook up to the sewer.

Mr. Withers asked if it would help if the Regional Board staff sent a letter to the City of Rancho Cucamonga, explaining the reasons for the denial, and the Board's expectation that there would be a connection made to the Barrett project's sewer when it becomes available.

Executive Officer Thibeault felt that the May 17 letter (which Board staff had not previously seen) appeared to qualify as an offset. He did note that Regional Board action could not prevent any action the City might elect to take. Verification would have to be made, but on the surface it appeared that this would resolve the issue.

Ms. McKeith asked the Board to postpone action for 30 days. Executive Officer Thibeault said that if the letter provided the offset, there was no need for the item to be brought back to the Board. Legal Counsel Cobb explained the options open to the Board and pointed out that Executive Officer Thibeault had the authority granted by the Board to approve the offset if it meets the exemption criteria. If it were not valid, the matter would come before the Board again. If requirements were met, the need to request an exemption would not exist.

Action: It was moved by Member Beswick and seconded by Member Henriques and passed unanimously that the Board reconsider its previous decision on Item No. 6.

Ms. Lori Williams voiced concern regarding the April 3 letter from the City of Rancho Cucamonga, which requires their compliance within 30 days of the date of the Board meeting. Legal Counsel Cobb explained that the offset could be approved well within the 30-day period if it met the requirements. If it did not meet the requirements, it could be brought to the Board again, but not within the thirty days. Ms. McKeith again requested that the item be continued. Legal Counsel Cobb reiterated that any time an item is removed from the agenda, it is essentially continued to the next appropriate time.

Chair Withers removed the item from the agenda and directed staff to work with the City of Rancho Cucamonga to attempt to resolve the issue.

7. Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirements - Ahd Haddad, 981 W. "F" Street, Colton, San Bernardino County

Gary Stewart stated that, unlike the Williams' project, this appeal involves the expansion of a commercial facility that proposes to add bedrooms and bathrooms to one unit of a 4-duplex development. The entire complex is on septic tank systems. Although Mr. Haddad's existing facility does not meet the minimum lot size requirements, these requirements do not apply to existing developments, therefore the existing four duplexes are "grandfathered in" already. However, any additions to commercial developments such as proposed by Mr. Haddad will be considered new developments if they will increase flows into the existing system. Mr. Haddad's proposal to add bedrooms and bathrooms to one of the existing duplexes will result in additional flows to the septic tank system. The County is requiring him to enlarge the existing septic tank system to accommodate these additional flows. This project causes the development to be considered a new development and requires compliance with the minimum lot size criteria. Since the proposed project would be 2.5 times the allowable

density, staff denied the request for exemption. Mr. Haddad is appealing this decision. Staff recommended that the Board deny this appeal.

Khalid Sayegh, property manager, represented Mr. Haddad and stated that the prime interest in the project is to create a better housing environment for his tenants and he is only asking to increase the septic tank from a 1200 gallon to a 2000 gallon capacity.

Action: It was moved by Member Beswick, seconded by Member Henriques and unanimously carried that the Board deny the exemption from minimum lot size requirements.

11. Renewal of Waste Discharge Requirements for Mountainview Power Company, San Bernardino Generating Station, San Bernardino County, Order 00-3

And

12. Renewal of Waste Discharge Requirements for Riverside Canal Power Company, Highgrove Generating Station, San Bernardino County, Order 00-4 with errata sheets.

Assistant Executive Officer Berchtold presented the staff report for both Items 11 and 12, and recommended adoption of Orders 00-03 and 00-04 with errata sheets.

Dr. Ted Guth spoke on behalf of the dischargers and asked that the Board renew the Orders as recommended by staff.

Steve Anderson representing Elsinore Valley Municipal Water District (EVMWD) asked that the Board postpone adoption of the orders until the August Board meeting in order to give them time to review these permits and determine any adverse effects it might cause EVMWD.

Board staff and Legal Counsel Cobb explained the Board's jurisdiction limitations with regard to the Riverside Canal.

Members Solorio and Pickler inquired about the downside of continuing this item to the next meeting. Staff responded that the permits had expired and EVMWD's stated concerns about the Riverside Canal are outside the Board's jurisdiction. Members Solorio and Pickler indicated their willingness to continue the item.

Mr. George Hall, Plant Manager for Riverside Canal Power Company, noted that the permits had been held up due to lack of quorum, etc., creating a reluctance by the discharger to proceed with various projects without renewed permits.

Action: It was moved by Member Solorio and seconded by Member Pickler that the Board continue action on these items to the meeting of June 30. The vote was two - Ayes, four - Noes. Members Henriques, Siems, Beswick, and Withers dissented. The motion failed.

Action: It was moved by Member Henriques, seconded by Member Siems that Item No. 11, Renewal of Waste Discharge Requirements for Mountainview Power Company, San Bernardino Generating Station, San Bernardino County, Order No. 00-03 be approved with errata sheet. The vote was four - Ayes Two - Noes. Members Solorio and Pickler dissented. The motion was approved.

It was moved by Member Beswick, seconded by Member Henriques that Item No. 12, Renewal of Waste Discharge Requirements for Riverside Canal Power Company, Highgrove Generating Station, Order No. 00-4 with errata sheet be approved. The vote was four Ayes, and two Noes, Members Solorio and Pickler dissenting. The motion was approved.

The Board observed a ten-minute recess

20. Administrative Civil Liability Complaint, County of Orange Integrated Waste Management, Frank R. Bowerman Landfill, Irvine, Orange County

Executive Officer Thibeault stated that the matter was resolved and requested that this item be removed from the agenda.

21. Cease and Desist Order, County of Orange Integrated Waste Management, Frank R. Bowerman Landfill, Irvine, Orange County

(Information pertaining to this item is contained in a verbatim transcript.)

Chair Withers opened the hearing by reading the Chair's Statement. All parties to the item were sworn in. Chair Withers noted that he had received no speaker cards and asked if there were any persons to speak or staff presentation.

Executive Officer Thibeault said that the item had been discussed in detail in a written staff report and staff recommended adoption of the order as presented in the agenda package.

Action: It was moved by Member Pickler, seconded by Member Beswick to adopt Cease and Desist Order No. 00-44 for the County of Orange Integrated Waste Management, Frank R. Bowerman Landfill, Irvine.

Chair Withers asked for a roll call. Assistant Executive Officer Berchtold called the roll with all six members voting aye.

22. Administrative Civil Liability Complaints

Del Amo Dairy (Larry Haakma)
Daniel Weeda Dairy (Adriana Weeda)

Administrative Civil Liability No. 00-48
Administrative Civil Liability No. 00-49

(Information pertaining to this item is contained in a verbatim transcript.)

Chair Withers opened the hearing with the reading of the Chair's Statement and swearing in of all interested parties.

Staff presentation of the item was made by Steve Mayville, Chief, Dairies/Chino Basin Section, who presented some aspects of the permit and a very brief synopsis on the permit for the purpose of acquainting new Board members. He explained the requirement of the annual reports as outlined in the permit and noted both Del Amo Dairy and Daniel Weeda Dairy had not reported as required. Mr. Mayville explained the history of their reporting or failure to do so and of the circumstances given as justification for failing to file reports.

Larry Haakma advised the Board that he had battled both cancer and shingles for the past year and had been severely ill. He asked the Board to consider these extenuating circumstances.

Representatives for Ms. Weeda noted that due to her advanced age, certain procedures had been difficult to maintain. Mailings to her home had not always reached the person(s) who could have responded for her.

Chair Withers noted that the noncompliance provided no financial nor economic gain, and in each case there were mitigating circumstances, however, dischargers need to take the requirements of the Board seriously. Both Chair Withers and Member Pickler expressed the possibility of assessing penalties but suspending a portion based on future compliance.

Member Solorio reiterated that he did not wish the Board to send a message that we will consider every reason why people fail to comply. Legal Counsel Cobb said it should be clear that any suspension is tied to the next compliance period.

Action: It was moved by Member Beswick, seconded by Member Pickler, and unanimously approved that the Board affirm the administrative civil liability assessment for Del Amo Dairy in the amount of \$4,700 and suspend \$3,700 provided that Del Amo Dairy submits its next annual report by January 15, 2001.

Tony Weeda spoke on behalf of Adriana Weeda and explained what he felt were mitigating circumstances. After a brief discussion, Member Pickler felt that the same conclusion offered in the case of Haakma Dairy would be appropriate.

Action: It was moved by Member Pickler, seconded by Member Henriques, and unanimously approved that the Board Board affirm the administrative civil liability assessment for Daniel Weeda Dairy in the amount of \$4,350 and suspend \$3,350, and that the balance of \$1,000 is payable in five monthly installments.

23. Public Hearing - Basin Plan Amendment

(Information pertaining to this item is contained in a verbatim transcript.)

Environmental Program Manager Joanne Schneider presented the amendment and detailed the rationale for the proposed Basin Plan Amendment. Ms. Schneider noted that the Starkist Caribe decision stipulated in part that compliance schedules can be included in the NPDES permits only if there is specific authorization in the Basin Plan to do so.

Staff's rationale in proposing this Basin Plan Amendment is to provide the Regional Board with an additional regulatory tool by which the Board can assure that water quality and beneficial uses are protected in a reasonable and fair manner.

James Colston, Orange County Sanitation District, spoke in support of the Amendment.

Action: It was moved by Member Siems, seconded by Member Beswick and unanimously approved that the Board adopt Resolution No. 00-27, Basin Plan Amendment.

24. Silverado Constructors, Eastern Transportation Corridor, Section 14-Denitrification Facility, Irvine

(Information pertaining to this item is contained in a verbatim transcript.)

This was an information item. Consideration of the amendment will be on the June 30, 2000 agenda.

25. Orange County Sanitation District's Year 3 Strategic Process Studies

Presentation of this item was made by Mark Adelson, Chief, Surveillance and Enforcement, and George Robertson of Orange County Sanitation District.

Action: It was moved by Member Solorio, seconded by Member Pickler and unanimously approved that the Board approve Orange County Sanitation District's Year 3 Strategic Process Studies and adopt Resolution 00-53 as presented.

Following a 30-minute break, Vice-Chair Henriques reconvened the meeting. Chair Withers and Member Beswick left the meeting during the break.

26. Irvine Community Development Company (ICDC), Crystal Cove Phase IV-3 and IV-4 Project Monitoring Program

(Information pertaining to this item is contained in a verbatim transcript.)

Joanne Schneider introduced the item and presented Dr. Richard Ford, who reviewed the nature and results to date of the monitoring program being conducted by ICDC, discussed sampling dates, techniques and methods.

27. Presentation by the Alliance to Rescue Crystal Cove and Orange County CoastKeeper

(Information pertaining to this item is contained in a verbatim transcript.)

Suzan Jordan, League for Coastal Protection, commented that the Crystal Cove area is a marine life refuge, contains internationally registered historic sites, and is the last pristine area of Orange County coastline. She also stated the Regional Board had not taken the total Irvine Company project into consideration when approving previous phases. She also stated that Dr. Ford was in error in his monitoring procedures, locations, and sampling assessments. Ms. Jordan felt that the Regional Board had been somewhat remiss in its approvals of previous phases as well as in Dr. Ford's monitoring procedures, and noted that both the Los Angeles and San Diego Regional Boards had developed much more aggressive stances in the protection of the waterways.

Garry Brown, Orange County CoastKeeper, presented a video of the areas in question expressing concern about the conditions already present when the project had not even begun. He reiterated that Crystal Cove was an area of special biological significance. He thanked Board Staff on the recent assessment proposed on the Pelican Hill Golf Course, but felt it did not go far enough. He would like to see the rationale for the assessment based upon what the guidelines say.

Kim Lewand spoke on behalf of Orange County CoastKeeper, also questioning the validity of Dr. Ford's findings, and presented specific steps she felt the Board should take in this matter. Ms. Lewand stated that the Orange County CoastKeeper felt that this project could be designed in a manner that would protect and preserve the water quality in Orange County.

28. 1999 Santa Ana River Sampling at Prado Dam

Staff provided a report on the 1999 Santa Ana River Sampling at Prado Dam.

29. General Permits

Staff provided a list of all new permittees recently enrolled under the Region's general permits.

30. Quarterly Violations Report

A list of violations was provided to the Board, as required by the State Water Resources Control Board's Water Quality Enforcement Policy.

31. Underground Storage Tanks Site Closure Report

Staff provided a list of site closures that have occurred within the Region since April 9, 1999.

32. Underground Storage Tanks Corrective Action

Staff provided a list of sites where Corrective Action plans have been submitted within the Region since January 1, 2000, as required by the California Underground Storage Tank Regulations.

33. Hazardous Waste and Sewage Spill Incident Report

Staff provided lists of such incidents to the Board

34. Executive Officer's Report

In addition to the written report, Executive Officer Thibeault reported on a meeting of the Orange County Action Plan 2000 attended the previous day by him and Assistant Executive Officer Berchtold. The Orange County Action Plan 2000 is a group of all involved agencies in putting together a strategy to address the recurrence of beach closures of Huntington Beach.

35. Regional Board Member Communications

There were none.

36. Adjournment

At 2:45 p.m. Vice-Chair Henriques adjourned to the regular meeting of June 30, 2000, at the City Council Chambers of Newport Beach at 9:30 a.m.

Respectfully submitted:

GERARD J. THIBEAULT
Executive Officer

/bjl